IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 838 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GHANSHYAM @ DHANIYO HAYALDAS PITHAN SINDHI THRO JASODABEN

Versus

STATE OF GUJARAT

Appearance:
1. Special Criminal Application No. 838 of 2003
PARTY-IN-PERSON for Petitioner No. 1
PUBLIC PROSECUTOR for Respondent No. 1
..... for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 17/09/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. In pursuance of the order dated 10.9.2003 passed by this court, Mr.Sanjiv Bhatt, Superintendent, Sabarmati Central Jail submitted his report, which is ordered to be taken on record.

It is stated in the report that on the application made by the convict-Ghanshyam Dayaldas, Khatla proceedings were initiated against six persons viz. (1) Pravin Govindbhai; (2) Nirmal @Fatiyo Rajendrasinh; (3) Bharat Gopalbhai Patel; (4) Dinesh Prakashbhai; (5) Prakash Kashyapbhai and (6) Bhupatsinh Mahendrasinh. All of them, including convict-Ghanshyam also warned for their conduct.

It is also stated in the report that because of serious allegations made by convict-Ghanshyam against First Subedar, Mr.Ramjibhai Damor, inquiry was entrusted to Mr.A.B.Makwana, Senior Jailor, Sabarmati Central Prison, who is asked to submit his report before 22nd. Mr.Sanjiv Bhatt, Superintendent, Sabarmati Central Prison stated before us that after receipt of the preliminary report, if there is anything found against Mr.Ramjibhai Damor, regular proceedings be initiated against him.

It is also stated in the report that because of the serious allegations made against First Subedar, Mr. Damor, his work is withdrawn and entrusted to another Subedar, Mr.Chhaganbhai J. Kishori.

It is further stated that convict-Ghanshyam was not given work since long, therefore, with a view to keep him busy some constructive work was entrusted to him in tailoring department in jail with effect from 15.9.2003.

#. Prisoner-Ghanshyam made serious allegations regarding rotten stuff of food served in jail for which he has lodged complaint to the Chief Justice and other authorities. He stated that he is apprehending that after these proceedings are over, he may be subjected to harassment in jail. Thereupon, Mr.Sanjiv Bhatt, Superintendent, Sabarmati Jail and Mr.Makwana, Senior Jailor have assured this court that they will see to it that proper food is served to the prisoners in jail. They also assured that as far as possible, the prisoners will be provided better facilities, in spite of the fact that the jail is over crowded with the prisoners. He, further assures that after this proceedings are over, no ill-treatment is meted out to the convict-Ghanshyam. He further states that one more prisoner i.e. Rajiv Gandabhai against whom convict-Ghanshyam made grievance

was on parole, therefore, Khatla proceedings could not be initiated against him and as soon as he returns back from parole, Khatla proceedings will be initiated against him and appropriate orders will be passed. Lastly, Mr.Bhatt assures that prisoner-Ghanshyam will be shifted to another circle so that he may not come into conflict with those other persons said to have been involved in the incident.

#. This petition was filed by Jasodaben Dayaldas, mother of prisoner-Ghanshyam. She was not present before the court right from the day one after filing of this petition, but in her absence we have perused the averments made in the application and passed necessary orders and her son Ghanshyam was kept present in the court. Most of the grievances of Ghanshyam have been redressed. Therefore, he left it to the court to pass appropriate order in the matter.

#. Under the circumstances, after hearing learned counsel Mr.Baiju Joshi appearing as amicus curiae in the matter and learned APP, Mr.Jani, we are of the considered opinion that the present proceedings are required to be closed in view of the report submitted by Mr.Bhatt, Superintendent, Sabarmati Central Jail and in view of the aforesaid solemn assurances given to this court by him as well as Mr.Makwana, Senior Jailor. Accordingly, this petition is disposed of.

#. We also place our appreciation to the valuable assistance rendered by Mr.Joshi in this matter for appearing as amicus curiae. Rule is discharged accordingly with no order as to costs.

(B.J.Shethna, J.)

(Ravi R. Tripathi, J.)

*Pvv